

February 24, 2009

PESTICIDE CLASSIFICATION GUIDELINE FOR ONTARIO

Version 1.0

Protecting our environment.



Ontario

Guidance for the Classification of Pesticides under
Ontario Regulation 63/09
General
to the *Pesticides Act*

Issued by:
Director of Standards Development Branch,
Ministry of the Environment
**(as designated by the Minister for the purposes
of section 4 of Regulation 63/09)**

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FOREWORD

The “Pesticide Classification Guideline for Ontario”, version 1, February 24, 2009 elaborates on the classification requirements of Ontario Regulation 63/09 made under the *Pesticides Act*. Regulation 63/09 revoked and replaced Ontario Regulation 914.

The Ministry of the Environment (MOE) may periodically amend this Guideline to reflect the evolving science associated with criteria for classifying pesticides. All web site addresses referred to in this document were current as of the time of release.

While every effort has been made to ensure the accuracy of the information contained in this Guideline, it should not be construed as legal advice. In the event of conflict with the requirements identified in Regulation 63/09, then the regulatory requirements shall determine the appropriate approach.

For further details or to obtain copies of the Guideline please contact:

Ministry of the Environment’s Public Information Centre
135 St. Clair Avenue West, 1st Floor, Toronto, ON M4V 1P5
Tel. 416-325-4000 or 1-800-565-4923, or
the MOE web site at www.ene.gov.on.ca

For any addenda or revisions to the Guideline please visit the MOE website at www.ene.gov.on.ca

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1. INTRODUCTION

The Ministry of the Environment (MOE) administers Ontario's *Pesticides Act*, R.S.O. 1990, Chap. P.11 which provides the province's framework for regulating the sale, use, transportation, storage and disposal of pesticides to protect human health and the natural environment. Ontario Regulation 63/09 (the "Regulation") made under the *Pesticides Act* is the general regulation governing pesticides in Ontario. This Regulation replaced and revoked Ontario Regulation 914.

The *Cosmetic Pesticides Ban Act*, 2008 was passed in the Ontario legislature on June 18, 2008. The requirements of the ban are detailed in the *Pesticides Act*, amended by the *Cosmetic Pesticides Ban Act*, 2008 and the Regulation.

Sections 17 to 33 of the Regulation outline the excepted uses including agriculture, forestry, uses integral to structural exterminations, uses required under other legislation and golf courses with conditions. There are also exceptions for specialty turf, specified sports fields, managing natural resources, promotion of public health or safety (including public works and structural exterminations), arboriculture and scientific purposes if certain conditions are met.

This Pesticide Classification Guideline for Ontario (the "Guideline") is intended to provide details on the classification system set out in sections 3 to 8 of the Regulation. These sections outline the decision-making framework for classifying pesticides and describe the eleven classes of pesticides.

Section 1 of the *Pesticides Act* includes a definition of the term "pesticide".

"pesticide" means any organism, substance or thing that is manufactured, represented, sold or used as a means of directly or indirectly controlling, preventing, destroying, mitigating, attracting or repelling any pest or of altering the growth, development or characteristics of any plant life that is not a pest and includes any organism, substance or thing registered under the Pest Control Products Act (PCPA, Canada);¹

¹ The *Pest Control Products Act*, 2002 is the federal legislation for registering pesticides and regulating their importation into Canada and their sale and use in Canada.

The classification system is used as the basis for regulating, among other things, the sale, use, transportation, storage and disposal of pesticides in Ontario. After a pesticide is registered² by the federal government, the province may classify a pesticide regulating its sale and use in Ontario to protect human health and the environment. Using unclassified pesticides can expose humans and the environment to unknown and possibly unacceptable risks. **Section 9** of the Regulation states that a pesticide must be registered and classified to be used in Ontario.

9. (1) Subject to sections 10, 13, 14 and 15, no person shall use a pesticide unless it is,

- (a) *classified under this Regulation as a Class 1, 2, 3, 4, 5, 6 or 7 pesticide and registered under the Pest Control Products Act (Canada) or the Fertilizers Act (Canada); or***
- (b) *an imported pesticide for which,***
 - (i) *an equivalency certificate issued under section 39 of the Pest Control Products Regulations (PCPR, Canada) is in effect, and***
 - (ii) *an own-use import certificate issued under section 41 of the Pest Control Products Regulations (Canada) is in effect.***

(2) *Subject to sections 10, 13, 14 and 15, the provisions of this Regulation that govern the use of a pesticide referred to in clause (1) (a) also apply to an imported pesticide referred to in clause (1) (b) if the equivalency certificate for the imported pesticide states that the imported pesticide is equivalent to the pesticide referred to in clause (1) (a).*

(3) *Subject to sections 10, 13, 14 and 15, no person shall use a pesticide except in accordance with the label for the pesticide and this Regulation.*

Please note that in accordance with section 9(3) of the Regulation, it is illegal to use a pesticide other than in accordance with the uses set out on the pesticide's label.

In general, the hazard posed by a pesticide is the basis for classifying pesticides and is determined by assessing toxicity, persistence in the environment and

² The Guideline is a rolling reference. As such, the Guideline can be amended to reflect changes made by the Pest Management Regulatory Agency (PMRA) to the federal registration system.

other factors. Pesticides that meet certain hazard³ criteria (e.g. toxicity and size of the pesticide container) are placed in the same class so that appropriate regulatory requirements can be placed on persons selling or using the pesticides. For example, persons require a licence and, in certain situations, a permit to use very hazardous pesticides. Pesticides that are less hazardous are more available for use by the general public.

Section 13 of the Regulation specifies that the following “pesticides” are exempt from the *Pesticides Act* and the Regulation.

13. The Act and the regulations do not apply with respect to the use, handling, storage, display, disposal, sale, offer for sale, transfer or transportation of the following :

- 1. A pesticide that is a machine, apparatus or piece of equipment that does not use a pesticide classified under this Regulation, a chemical agent or a microbiological agent.**
- 2. A pesticide, including an algicide, slimicide or bactericide, that is not classified under this Regulation but is registered under the Pest Control Products Act (Canada) and is used only in the extermination of micro-organisms.**
- 3. A pesticide that is a living animal that is not classified under this Regulation and that is not registered under the Pest Control Products Act (Canada).**

A summary of the eleven classes of pesticides is provided below. Please see Chapter 3 for a detailed description of each class of pesticides.

Class 1 are pesticides designated under the PCPA as pesticides of the Manufacturing Class⁴ for use only in the manufacture of a pest control product or a product regulated under the *Fertilizers Act*.

Classes 2, 3 and 4 are pesticides designated under the PCPA as pesticides of the Commercial Class for use in commercial activities that

³ For the purposes of the Regulation and the Guideline, the “hazard” is used to describe the property of the pesticide

⁴ Under Section 5 of the federal Pest Control Product Regulations, a pest control product is designated as one of four product classes (i.e. Manufacturing, Restricted, Commercial or Domestic).

are specified on the label or Restricted Class when the label specifies essential conditions respecting the display, distribution or limitations on the use of, or qualifications of persons who may use the product.

Classes 5, 6 and 7 are pesticides designated under the PCPA as pesticides of the Domestic Class to be distributed primarily to the general public for personal use in or around their homes.

Class 8 pesticides are banned for sale in Ontario.

Class 9 pesticides are banned for use in, on or over land unless their use is excepted.

Class 10 pesticides are allowed for use under the promotion of public health or safety exception.

Class 11 pesticides require a “green” notice sign be posted for the purposes of providing public notice when products containing these ingredients are used by any person on non-residential area land and by a licensed exterminator on residential area land in performing land exterminations.

Section 4 of the Regulation stipulates that a person designated by the Minister shall classify pesticides in accordance with the rules set out in that section. As the Minister has designated the Director, Standards Development Branch, and Manager, Pesticides Section to classify pesticides, for simplicity the Guideline refers to the person in s.4(1) as “the Director”.

Section 3 of the Regulation requires the Director to maintain a publicly accessible Compendium of Classified Pesticides that provides a record of all pesticides classified in the Province of Ontario. The Compendium is available at the Ministry’s Public Information Centre, during ordinary business hours or on the MOE web site at www.ene.gov.on.ca.

Section 5 of the Regulation describes the process that is to be followed in dealing with applications to classify pesticides.

Sections 6 and 7 of the Regulation address reclassification and declassification of pesticides, respectively.

1.1 Cosmetic Use

Under the new classification system, the use of a pesticide, as described on its label, is considered in assigning pesticides to certain classes of pesticides.

Subsection 35(2) of the *Pesticides Act* states that a regulation that prescribes pesticides for the purpose of **subsection 7.1 (1) or (4)** of the Act shall not prescribe a pesticide unless the pesticide may be used in, on or over land for a cosmetic purpose. “Cosmetic” is defined in the *Pesticides Act* as “non-essential”.

7.1 (1) No person shall use or cause or permit the use in, on or over land of a pesticide that has been prescribed for the purpose of this subsection. 2008, c. 11, s. 2.

(4) Despite section 6, no person shall sell, offer to sell or transfer a pesticide that has been prescribed for the purpose of this subsection. 2008, c. 11, s. 2.

In prescribing pesticides for the purpose of subsection 7.1 (1) or (4) of the Act, a pesticide will be considered as a pesticide that may be used for cosmetic purposes if the uses set out on the federal label are in, on or over land and do not include excepted uses set out in **subsection 7.1(2)** of the Act.

7.1 (2) Subject to the regulations, subsection (1) does not apply to the following uses of a pesticide:

- 1. Uses related to golf courses, if any prescribed conditions have been met.***
 - 2. Uses related to agriculture.***
 - 3. Uses related to forestry.***
 - 4. Uses related to the promotion of public health or safety.***
 - 5. Other prescribed uses, if any prescribed conditions have been met.***
- 2008, c. 11, s. 2.***

In general, if a pesticide is labelled ONLY for one of the excepted uses it would not be banned in Ontario and would be allowed to be used for the excepted use.

For example, if the only use on a pesticide's label is for the control of wasps, the pesticide would not be banned in Ontario; rather, it would be considered essential for the promotion of public health or safety as defined in section 17 of the Regulation. Similarly, if a product were labelled for use around the outside of a home to prevent ants from entering the home, it would be considered essential as the use is integral to a structural extermination as stated in section 30 of the Regulation.

Note, however, that where a pesticide's label indicates use for more than one purpose, the pesticide may be prescribed for the purposes of subsection 7.1(1) or (4) of the Act. For example, if a pesticide were labelled for both⁵ the control of poison ivy and the control of weeds on lawns, the pesticide ingredient would be placed in Class 9 and products containing this pesticide ingredient would be placed in Class 7 and allowed for use under one of the exceptions. All other uses of the pesticide would be banned in Ontario.

In summary, a pesticide would be banned for use if its label set out uses that do not include any uses excepted under subsection 7.1 (2) of the Act (e.g. if the label sets out uses solely on lawns, in gardens, parks or school yards).⁶

2. APPLICATION PROCESS

Section 10 of the *Pesticides Act* is the authority for the establishment of Ontario's Pesticide Advisory Committee (OPAC)⁷ and sets out the following functions.

1. review annually the content and operation of the *Pesticides Act* and the Regulation and recommend changes or amendments to the Minister.
2. inquire into and consider any matter that the Committee or the Minister considers advisable concerning pesticides and the control of pests and report thereon to the Minister.

⁵ If the only use on a pesticide label was for poison ivy, that pesticide would not be banned in Ontario. If it were a pesticide designated as a Domestic class, it would be classified into Class 5 or 6. Even if the pesticide contained a pesticide ingredient listed on Class 9, the pesticide would be allowed for use under the exception for the promotion of public health or safety (section 22 of the Regulation).

⁶ The federal label may not always explicitly state "lawns", "gardens", "parks" or "school yards". As such, the Director will use his or her judgement in making a determination that the uses of the pesticide are considered to be uses for cosmetic purposes.

⁷ Note that OPAC is referred to in the Regulation as "the Committee" (see the OPAC web site at www.opac.gov.on.ca for further information about OPAC including its membership).

3. review government publications respecting pesticides and the control of pests and report thereon to the Minister.
4. perform other functions prescribed in the Regulation including recommendations on pesticide classification

An application to have a pesticide classified in Ontario must be made using the form entitled “Application for Pesticide Classification under the *Pesticides Act*” which is available through the MOE website at www.ene.gov.on.ca. All completed and signed application forms are to be submitted to:

Chair, Pesticides Advisory Committee
Ministry of the Environment
P.O. Box 2434
2300 Yonge St., Suite 1701
Toronto, Ontario M4P 1E4

Subsection 5(1) of the Regulation stipulates who may apply for the classification of a pesticide in Ontario.

5.(1) The following persons may submit to the Committee, in a form approved by the designated person mentioned in subsection 4(1), an application for the classification of a pesticide:

- 1. A person who has registered the pesticides⁸ under the Pest Control Products Act (Canada) or the Fertilizers Act (Canada).***
- 2. The Canadian agent of the person described in paragraph 1, if the pesticide is registered under the Pest Control Products Act (Canada).***

Once an application for the classification of a pesticide has been made, OPAC will assess the application and provide a written recommendation to the Director about whether the pesticide should be classified as Class 1, 2, 3, 4, 5, or 6. The criteria for placement in each of these classes are described in Chapter 3 of the Guideline (see also Appendix A).

⁸ Note that the term pesticide is not defined under the federal *Pest Control Products Act*. That Act uses the term “pest control product” (see Chapter 5 for the definition under the PCPA).

OPAC may recommend to the Director that he or she refuse to classify a pesticide if OPAC is of the opinion that:

1. it does not have sufficient information to recommend that the pesticide be classified;
2. proper use of the pesticide is likely to have one or more effects mentioned in subsection 49(3) of the Act, to an extent that is excessive, unreasonable or unnecessary, or
3. it is not in the public interest to classify the pesticide.

After OPAC has made its recommendation to the Director, the Director will consider that recommendation and will also consider whether the pesticide in question is a pesticide that may be used for cosmetic purposes. The Director will consider whether it should be classified into Class 7 or is a Class 8 pesticide that should not be classified and if the pesticide ingredient in Classes 1, 2, 3, 4, 5, 6 or 7 pesticides should be placed in Classes 9, 10, or 11 (see also Appendix B).

3. CLASSIFICATION OF PESTICIDES

The classification system will consider the Federal Class designation of the product under the PCPA, the Hazard Criteria, and its use. The pesticides that are ingredients in pesticide products are also classified under the classification system.

Section 4(5) of the Regulation sets out eleven possible classifications for pesticides in the Table to that section as follows:

Item	Column 1	Column 2
	Criteria	Classification
1.	The pesticide is designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Manufacturing class.	Class 1
2.	<ol style="list-style-type: none"> 1. The pesticide is designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Commercial or Restricted class. 2. The pesticide meets the description of Very Hazardous in the Guideline mentioned in subsection 4(5). 3. The pesticide does not meet the description of a Controlled Sales pesticide in the Guideline mentioned in subsection 4(5). 	Class 2
3.	<ol style="list-style-type: none"> 1. The pesticide is designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Commercial or Restricted class. 2. The pesticide meets the description of Moderately Hazardous in the Guideline mentioned in subsection 4(5). 3. The pesticide does not meet the description of a Controlled Sales pesticide in 	Class 3

Pesticide Classification Guideline for Ontario

Item	Column 1	Column 2
	Criteria	Classification
	the Guideline mentioned in subsection 4(5).	
4.	<ol style="list-style-type: none"> 1. The pesticide is designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Commercial or Restricted class. 2. The pesticide meets the description of Less or Least Hazardous in the Guideline mentioned in subsection 4(5). 3. The pesticide does not meet the description of a Controlled Sales pesticide set out in the Guideline mentioned in subsection 4(5). 	Class 4
5.	<ol style="list-style-type: none"> 1. The pesticide is: <ol style="list-style-type: none"> i. designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Domestic class and meets the description of Less Hazardous in the Guideline mentioned in subsection 4(5), or ii. registered under the <i>Fertilizers Act</i> (Canada) and the size of its container is greater than 1 kilogram or 1 litre. 2. If the pesticide may be used in, on or over land, <ol style="list-style-type: none"> i. the only pesticide ingredient it contains is a Class 11 pesticide, or ii. every use set out on the pesticide's label is a use mentioned in subsection 7.1 (2) of the Act. 	Class 5
6.	<ol style="list-style-type: none"> 1. The pesticide is: <ol style="list-style-type: none"> i. designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Domestic class and meets the description of Least Hazardous in the Guideline mentioned in subsection 4(5), or ii. registered under the <i>Fertilizers Act</i> (Canada) and the size of its container is less than or equal to 1 kilogram or 1 litre. 2. If the pesticide may be used in, on or over land, <ol style="list-style-type: none"> i. the only pesticide ingredient it contains is a Class 11 pesticide, or ii. every use set out on the pesticide's label is a use mentioned in subsection 7.1 (2) of the Act. 	Class 6
7.	<ol style="list-style-type: none"> 1. The pesticide is designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Domestic or Restricted class. 2. The pesticide may be used in, on or over land. 3. The pesticide meets the description of a Controlled Sales pesticide set out in the Guideline mentioned in subsection 4(5). 	Class 7
8.	<ol style="list-style-type: none"> 1. The pesticide is designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Domestic class or is registered under the <i>Fertilizers Act</i> (Canada). 2. The pesticide may be used in, on or over land. 3. The pesticide contains a Class 9 pesticide. 4. The pesticide meets one of the following descriptions: <ol style="list-style-type: none"> ii. Its label does not set out any of the uses mentioned in subsection 7.1 (2) of the Act. ii. If its label sets out a use mentioned in paragraph 4 of subsection 7.1 (2) of the Act, the pesticide does not meet the description of a Controlled Sales pesticide set out in the Guideline mentioned in subsection 4(5). 	Class 8
9.	<ol style="list-style-type: none"> 1. The pesticide is an ingredient in a Class 2, 3, 4, 5, 6, 7 or 8 pesticide. 2. The label of the Class 2, 3, 4, 5, 6, 7 or 8 pesticide sets out at least one use that is not a use mentioned in subsection 7.1 (2) of the Act. 3. The pesticide does not meet the description of a Category I pesticide in the Guideline mentioned in subsection 4(5). 	Class 9
10.	<ol style="list-style-type: none"> 1. The pesticide is a Class 9 pesticide. 2. The pesticide meets the description of Category II pesticide in the Guideline mentioned in subsection 4(5). 	Class 10
11.	<ol style="list-style-type: none"> 1. The pesticide is an ingredient in a Class 2, 3, 4, 5, 6 or 7 pesticide. 2. The pesticide meets the description of a Category I in the Guideline mentioned in subsection 4(5). 	Class 11

This Chapter of the Guideline explains the specific criteria that must be followed by OPAC when making its written recommendation to the Director as per **section 5(3)** of the Regulation.

5. (3) After considering an application for the classification of a pesticide, the Committee shall provide a written recommendation to the designated person mentioned in subsection 4 (1) with respect to the classification of the pesticide in accordance with the following rules:

- 1. Subject to paragraphs 2 and 4, if the pesticide meets the criteria set out in Column 1 of the Table to section 4 opposite Class 1, 2, 3, 4, 5 or 6, the Committee shall recommend that the pesticide be classified into that class.***
- 2. The Committee may recommend that the pesticide be classified other than in accordance with paragraph 1 if the Committee considers it to be in the public interest to do so.***
- 3. If the Committee makes a recommendation under paragraph 2, the Committee shall provide written reasons for the recommendation, which may include reference to the toxicity, persistence, container size and mobility of the pesticide.***
- 4. The Committee may recommend that the designated person mentioned in subsection 4 (1) refuse to classify the pesticide if the Committee is of the opinion that,***
 - i. it does not have sufficient information to recommend that the pesticide be classified,***
 - ii. proper use of the pesticide, as described in the directions on the pesticide's label and in accordance with the Act and this Regulation, is likely to have one or more of the effects mentioned in subsection 49 (3) of the Act, to an extent that is excessive, unreasonable or unnecessary, or***
 - iii. it is not in the public interest to classify the pesticide.***

Note that section 5(3) allows OPAC to deviate from the criteria set out in the Regulation and this Guideline when making recommendations to the Director, but specifies that the reasons for any deviation, such as the consideration of toxicity, mobility, persistence and container size, must be provided in its written recommendation.

The authority for the Director to classify pesticides, based on the recommendations of OPAC is set out in **section 4** of the Regulation.

- 4. (1) The Minister shall designate a person for the purposes of this section.**
- (2) Subject to subsection (3), the designated person shall,**
- (a) classify a pesticide into a class set out in Column 2 of the Table to this section if the pesticide meets the criteria set out opposite the class in Column 1 of the Table;**
 - (b) classify a pesticide other than in accordance with clause (a) if, in the designated person's opinion, it is in the public interest to do so; or**
 - (c) refuse to classify a pesticide if, in the designated person's opinion,**
 - (i) he or she does not have sufficient information to classify the pesticide,**
 - (ii) proper use of the pesticide, as described in the directions on the pesticide's label and in accordance with the Act and this Regulation, is likely to have one or more of the effects mentioned in subsection 49 (3) of the Act, to an extent that is excessive, unreasonable or unnecessary, or**
 - (iii) it is not in the public interest to classify the pesticide.**
- (3) In classifying or refusing to classify a pesticide, the designated person shall have regard to any recommendation that has been made by the Committee under this Regulation with respect to the classification.**

Under section 4(2) of the Regulation, the Director is to follow the classification rules set out in **section 4** of the Regulation and in the Guideline unless he or she considers it to be in the public interest to deviate. When doing so, the Director may consider such things as flammability, explosiveness, inhalation toxicity and chronic toxicity (e.g. its carcinogenicity, mutagenicity, teratogenicity etc.) in classifying pesticides.

3.1 Class 1

The pesticide is designated under the *Pest Control Products Act* (Canada) as a pesticide of the Manufacturing class.

All pesticides which are federally designated in the Manufacturing class under the PCPA are to be classified into Class 1. Class 1 pesticides are manufacturing concentrates used to formulate pesticide products or to be incorporated into other manufactured products.

3.2 Class 2

1. The pesticide is designated under the *Pest Control Products Act* (Canada) as a pesticide of the Commercial or Restricted class.
2. The pesticide meets the description of Very Hazardous in the Guideline mentioned in subsection 4(5).
3. The pesticide does not meet the description of a Controlled Sales pesticide in the Guideline mentioned in subsection 4(5).

Federal Designation

Section 5 of the federal Pest Control Products Regulations defines the Commercial and Restricted classes of pesticides as follows:

Commercial: if the pest control product is to be distributed for use in commercial activities that are specified on the label, it will be designated as Commercial class.

Restricted: if the pest control product is one for which the Federal Minister of Health, out of concern for its health or environmental risks, has set out additional information to be shown on the label concerning essential conditions respecting the display, distribution or limitations on use of, or qualifications of persons who may use, the product, it will be designated as a Restricted class.

Pesticides designated as Commercial or Restricted class under the PCPA may be classified as either Class 2, 3, 4 or 7 pesticides under the Regulation depending on a number of factors set out below.

Hazard Criteria

Class 2 contains pesticides that are designated as Commercial or Restricted class under the PCPA and satisfy the criteria for the designation of Very Hazardous. For the purposes of the Guideline, a pesticide will be considered to be Very Hazardous if it meets at least one of the following criteria:

- a. It is a fumigant gas
- b. It has an acute oral LD₅₀⁹ of less than or equal to 50 mg/kg body weight.
- c. It has an acute dermal LD₅₀ of less than or equal to 100 mg/kg body weight.
- d. It has a soil half-life¹⁰ of greater than or equal to six months

All pesticides which are fumigant gases¹¹ are Class 2 pesticides. Note that a “fumigant” means a pesticide that is or that produces a gas, vapour, fume or smoke and that functions as a pesticide exclusively or primarily by the action of the gas, vapour, fume or smoke. For clarity, fumigant gases are a subset of fumigants.

“LD₅₀” means the LD₅₀ considered by the Pest Management Regulatory Agency (PMRA) in the registration of the pest control product under the PCPA. In other words, the applicant must submit the same LD₅₀ information that was submitted to the PMRA for the registration of the product.

With respect to a pesticide, the soil half-life is that considered by the PMRA in the registration of the pest control product under the PCPA. Again, the applicant must submit the same soil half-life information that was submitted to the PMRA for the registration of the product.

It is important to note that OPAC is to recommend that a pesticide be classified as a Class 2 pesticide if **any one of the above four criteria is satisfied**.

Example: Suppose that a non-fumigant gas pesticide is designated Commercial class and meets the following criteria:

- a. an acute oral LD₅₀ of 60 mg/kg body weight,
- b. an acute dermal LD₅₀ of 200 mg/kg body weight, and

⁹ See Chapter 5 for definition of LD₅₀

¹⁰ See Chapter 5 for definition of soil half-life

¹¹ See Chapter 5 for definition of fumigant gases

c. a soil half-life of six months.

In such a case, OPAC is to recommend that the pesticide be classified as a Class 2 pesticide because of criteria “c” even though criteria “a” and “b” do not satisfy the Class 2 criteria.

However, as per section 5(3) of the Regulation and as described in Chapter 3 of the Guideline, OPAC does retain discretion to recommend a different classification if OPAC considers it appropriate to do so and provides written reasons for its recommendation to the Director.

Use Criteria

Class 2 contains pesticides that are designated Restricted class under the PCPA (except those Restricted pesticides that contain capsaicin).

The federal label of Restricted class pesticides that contain the ingredient, capsaicin, indicate that the signature of the purchaser is required (e.g. bear repellents) and these Restricted class pesticides will be placed into Class 7 as Controlled Sales pesticides.

As of April 22, 2011, Section 103 of the Regulation requires that Class 7 pesticides be displayed in a manner that consumers do not have ready access to the pesticides. This requirement will help ensure that the federal legal requirements for signature are met. Refer to Chapter 3.7 for further details on Class 7 pesticides.

It should also be noted that Class 2 pesticides that have ingredients listed in Class 9 may only be used in, on or over land for the uses set out in sections 17 to 33 of the Regulation. These excepted uses include agriculture, forestry, uses integral to structural exterminations, uses required under other legislation and golf courses with conditions. There are also exceptions for specialty turf, specified sports fields, managing natural resources, promotion of public health or safety (including public works and structural exterminations), arboriculture and scientific purposes if certain conditions are met.

3.3 Class 3

1. The pesticide is designated under the *Pest Control Products Act* (Canada) as a pesticide of the Commercial or Restricted class.
2. The pesticide meets the description of Moderately Hazardous in the Guideline mentioned in subsection 4(5).
3. The pesticide does not meet the description of a Controlled Sales pesticide in the Guideline mentioned in subsection 4(5).

Federal Designation

Class 3 pesticides are those that are designated as Commercial or Restricted class pesticides under the PCPA (see definition in Chapter 3.2 above).

Hazard Criteria

Class 3 pesticides must satisfy the criteria for the designation of Moderately Hazardous. For the purposes of the Guideline, a Commercial or Restricted class pesticide will be considered to be Moderately Hazardous if it meets none of the hazard characteristics of Class 2 pesticides, and has at least one of the following hazard characteristics:

- a. It has an acute oral LD₅₀ of greater than 50 but less than or equal to 500 mg/kg body weight.
- b. It has an acute dermal LD₅₀ of greater than 100 but less than or equal to 1000 mg/kg body weight.
- c. It has a soil half-life of greater than one month but less than six months.

Again, it is important to note that OPAC is to recommend that a pesticide be classified as a Class 3 pesticide if **any one of the above three criteria is satisfied**.

As per section 5(3) of the Regulation and as described in Chapter 3 of the Guideline, OPAC does retain discretion to recommend a different classification if OPAC considers it appropriate to do so and provides written reasons for its recommendation to the Director.

Use Criteria

Class 3 contains pesticides that are designated Restricted under the federal PCPA except those Restricted pesticides that contain capsaicin (see Chapter 3.2 above for further information).

It should also be noted that Class 3 pesticides that have ingredients listed in Class 9 may only be used in, on or over land for the uses set out in sections 17 to 33 of the Regulation. These exceptions include uses for agriculture, forestry, uses integral to structural exterminations, uses required under other legislation and golf courses with conditions. There are also exceptions for specialty turf, specified sports fields, managing natural resources, promotion of public health or safety (including public works and structural exterminations), arboriculture and scientific purposes if certain conditions are met.

3.4 Class 4

1. The pesticide is designated under the *Pest Control Products Act* (Canada) as a pesticide of the Commercial or Restricted class.
2. The pesticide meets the description of Less or Least Hazardous in the Guideline mentioned in subsection 4(5).
3. The pesticide does not meet the description of a Controlled Sales pesticide set out in the Guideline mentioned in subsection 4(5).

Federal Designation

Class 4 pesticides are those that are designated as Commercial or Restricted class pesticides under the federal PCPA (see definition in Chapter 3.2 above).

Hazard Criteria

For the purposes of the Guideline, a pesticide that is designated as Commercial or Restricted under the federal PCPA will be considered to be Less or Least Hazardous¹² if it does not otherwise meet any of the criteria of a Class 2 or Class 3 pesticide. For the purposes of the Guideline and the Regulation, a pesticide will be designated as Less or Least Hazardous, if it meets all of the following criteria:

¹² The term "Less Hazardous" relates to the criteria for Class 5 pesticides (see Chapter 3.5) and the term "Least Hazardous" relates to the criteria for Class 6 pesticides (see Chapter 3.6).

- a. It has an acute oral LD₅₀ of greater than 500 mg/kg body weight.
- b. It has an acute dermal LD₅₀ of greater than 1000 mg/kg body weight.
- c. It has a soil half-life of less than or equal to one month.

Example: Suppose that a pesticide is designated as Commercial class and meets the following criteria:

- a. an acute oral LD₅₀ of 1300 mg/kg body weight,
- b. an acute dermal LD₅₀ of 2200 mg/kg body weight, and
- c. a soil half-life of 1 day.

OPAC would be required to recommend that such a pesticide be placed into Class 4.

As per section 5(3) of the Regulation and as described in Chapter 3 of the Guideline, OPAC does retain discretion to recommend a different classification if OPAC considers it appropriate to do so and provides written reasons for its recommendation to the Director.

Use Criteria

Class 4 contains pesticides that are designated Restricted under the federal PCPA except those Restricted pesticides that contain capsaicin (see Chapter 3.2 above for further information).

It should also be noted that Class 4 pesticides that have ingredients listed in Class 9 may only be used in, on or over land for the uses set out in sections 17 to 33 of the Regulation. These exceptions include uses for agriculture, forestry, uses integral to structural exterminations, uses required under other legislation and golf courses with conditions. There are also exceptions for specialty turf, specified sports fields, managing natural resources, promotion of public health or safety (including public works and structural exterminations), arboriculture and scientific purposes if certain conditions are met.

3.5 Class 5

1. The pesticide is:

- i. designated under the *Pest Control Products Act* (Canada) as a pesticide of the Domestic class and meets the description of Less Hazardous in the Guideline mentioned in subsection 4(5), or
- ii. registered under the *Fertilizers Act* (Canada) and the size of its container is greater than 1 kilogram or 1 litre.

2. If the pesticide may be used in, on or over land,

- i. the only pesticide ingredient it contains is a Class 11 pesticide, or
- ii. every use set out on the pesticide's label is a use mentioned in subsection 7.1 (2) of the Act.

Federal Designation

Pesticides designated as Domestic class under the PCPA may be classified as either Class 5, 6, 7 or 8 pesticides under the Regulation depending on a number of factors set out below.

Pesticides that are registered under the *Fertilizers Act* may be classified as either Class 5, 6 or 8 pesticides under the Regulation based on several factors including the size of the pesticide container.

The first characteristic of a Class 5 pesticide is that it is designated Domestic class under the PCPA. Section 5 of the PCPR defines pesticides that fall into the "Domestic" class as follows:

"the pest control product is to be distributed primarily to the general public for personal use in or around their homes."

Another characteristic of a Class 5 pesticide is that it is registered under the *Fertilizers Act* and the size of its container is greater than 1 kilogram or 1 litre.

Hazard Criteria

The next characteristic of Class 5 pesticides is that they are Domestic class pesticides that satisfy the criteria for the designation of **Less Hazardous**. For the purposes of the Guideline and the Regulation, a Less Hazardous pesticide must meet at least one of the following criteria:

- a. It has an acute oral LD₅₀ of less than or equal to 5,000¹³ mg/kg body weight
- b. It has an acute dermal LD₅₀ of less than or equal to 10,000 mg/kg body weight.
- c. It has a soil half-life of greater than or equal to two weeks.
- d. the size of its container is greater than 1 kg or 1 litre.

Again, it is important to note that OPAC is to recommend that a pesticide be classified as a Class 5 pesticide if **any one of the above four criteria is satisfied.**

Example: Suppose that a pesticide is designated as Domestic class and meets the following criteria:

- a. an acute oral LD₅₀ 9,000 mg/kg body weight.**
- b. an acute dermal LD₅₀ of 20,000 mg/kg body weight.**
- c. a soil half-life of 3 days.**
- d. a container size of 1.5 litres.**

OPAC would be required to recommend that this product be placed in Class 5. Even though it meets the scientific thresholds of a Least Hazardous pesticide (see Chapter 3.6), the fact that it is in a container that is larger than 1 litre necessitates that it be placed into Class 5.

As per section 5(3) of the Regulation and as described in Chapter 3 of the Guideline, OPAC does retain discretion to recommend a different classification if OPAC considers it appropriate to do so and provides written reasons for its recommendation to the Director.

Use Criteria

If a Domestic class pesticide is considered to be Less Hazardous and may not be used in, on or over land – for example, is used to exterminate pests in a structure

¹³ Note that pesticides designated as “Domestic” by the PCPA would have an acute oral LD₅₀ greater than 500 mg/kg. Go to: http://www.hc-sc.gc.ca/cps-spc/pest/part/fpt/_wg-gt/ciwg-gtccp-class-eng.php#pdcip.

or in water, it will be placed into Class 5. However, if the pesticide may be used in, on or over land, the Director must undertake a further assessment of the uses set out on its label.

A pesticide that may be used in, on or over land will be placed in Class 5 if it has no cosmetic use on its label. In other words, if the label doesn't contain any uses other than uses that are excepted under section 7.1(2) of the Act, it will be placed into Class 5.

In addition, if a Domestic class pesticide that is to be used in, on or over land is considered to be Less Hazardous, and contains no pesticide other than a Class 11 pesticide, it will be placed into Class 5. For these pesticides, it does not matter whether the uses set out on the label are cosmetic or non-cosmetic uses as they are considered to be Category I pesticides (see Chapter 3.11).

It should also be noted that Class 5 pesticides that have ingredients listed in Class 9 may only be used in, on or over land for the uses set out in sections 17 to 33 of the Regulation. These exceptions include uses for agriculture, forestry, uses integral to structural exterminations, uses required under other legislation and golf courses with conditions. There are also exceptions for specialty turf, specified sports fields, managing natural resources, promotion of public health or safety (including public works and structural exterminations), arboriculture and scientific purposes if certain conditions are met.

3.6 Class 6

1. The pesticide is:

- i. designated under the *Pest Control Products Act* (Canada) as a pesticide of the Domestic class and meets the description of Least Hazardous in the Guideline mentioned in subsection 4(5), or
- ii. registered under the *Fertilizers Act* (Canada) and the size of its container is less than or equal to 1 kilogram or 1 litre.

2. If the pesticide may be used in, on or over land,

- i. the only pesticide ingredient it contains is a Class 11 pesticide, or
- ii. every use set out on the pesticide's label is a use mentioned in subsection 7.1 (2) of the Act.

Federal Designation

The first characteristic of a Class 6 pesticide is that it is designated as a Domestic class under the PCPA.

Also, a Class 6 pesticide is a pesticide that it is registered under the *Fertilizers Act* and the size of its container is less than or equal to 1 kilogram or 1 litre.

Hazard Criteria

A second characteristic of Class 6 pesticides is that they satisfy the criteria for the designation of Least Hazardous. To be considered Least Hazardous a pesticide must meet **none** of the hazard criteria of a Class 5 pesticide. In other words, for the purposes of the Guideline and the Regulation, a pesticide will be designated as Least Hazardous only if it has **all** of the following criteria:

- a. An acute oral LD₅₀ of greater than 5000 mg/kg body weight.
- b. An acute dermal LD₅₀ of greater than 10,000 mg/kg body weight.
- c. A soil half-life of less than 2 weeks.
- d. The container size is less than or equal to 1kg or 1 litre.

Example: Suppose that a pesticide is designated as Domestic class and meets the following criteria:

- a. an acute oral LD₅₀ 4,000 mg/kg body weight.**
- b. an acute dermal LD₅₀ of 20,000 mg/kg body weight.**
- c. a soil half-life of 3 days.**
- d. a container size of 0.5 litres.**

In this circumstance, the pesticide would not meet the criteria of Least Hazardous as criterion “a” is a characteristic of a Class 5 pesticide. Accordingly, OPAC would be required to recommend that it be classified into Class 5. The only way the pesticide will be recommended to be classified into Class 6 is if the pesticide meets none of the criteria of a Class 5 pesticide.

As per section 5(3) of the Regulation and as described in Chapter 3 of the Guideline, OPAC does retain discretion to recommend a different classification if OPAC considers it appropriate to do so and provides written reasons for its decision to the Director.

Use Criteria

If a Domestic class pesticide is considered to be Least Hazardous and can be used in a structural or water extermination, it will be placed into Class 6. However, if the pesticide may be used in, on or over land, the Director must undertake a further assessment of the uses set out on its label.

A pesticide that may be used in, on or over land will be placed in Class 6 if it has no cosmetic use on its label. In other words, if the label doesn't contain any uses other than the uses that are excepted under section 7.1(2) of the Act, it will be placed into Class 6.

In addition, if a Domestic class pesticide that is considered to be Least Hazardous may be used in, on or over land and contains no pesticide other than a Class 11 pesticide, it will be placed into Class 6. For these pesticides, it does not matter whether the uses set out on the label are cosmetic or non-cosmetic uses as they are considered to be Category I pesticides (see Chapter 3.11).

It should also be noted that Class 6 pesticides that have ingredients listed in Class 9 may only be used in, on or over land for the uses set out in sections 17 to 33 of the Regulation. These exceptions include uses for agriculture, forestry, uses integral to structural exterminations, uses required under other legislation and golf courses with conditions. There are also exceptions for specialty turf, specified sports fields, managing natural resources, promotion of public health or safety (including public works and structural exterminations), arboriculture and scientific purposes if certain conditions are met.

3.7 Class 7

1. The pesticide is designated under the *Pest Control Products Act* (Canada) as a pesticide of the Domestic or Restricted class.
2. The pesticide may be used in, on or over land.
3. The pesticide meets the description of a Controlled Sales pesticide set out in the Guideline mentioned in subsection 4(5).

Federal Designation

Class 7 pesticides are either designated Restricted or Domestic class under the federal PCPA scheme.

Use Criteria

The pesticides in Class 7 will be subject to sales restrictions in Ontario. Section 101 of the Regulation sets out that vendors have to give customers information at the point of purchase indicating that certain uses of Class 7 pesticides are illegal in Ontario. As well, starting on April 22, 2011, vendors will be required to display Class 7 pesticides in a manner that is not accessible to the public in accordance with section 103 of the Regulation. Such restrictions on accessibility will help ensure that the legal requirements for notification at purchase are met.

There are two types of pesticides that will be subject to the controlled sales requirements described above because of the uses set out on their labels. A pesticide that may be used in, on or over land will be considered to be **Controlled Sales pesticide** if:

- (i) It contains a Class 9 pesticide and has dual (both cosmetic and non-cosmetic) uses; or
- (ii) It contains the ingredient, capsaicin, and the federal label requires the signature of the purchaser.

(i) Dual-Use Pesticides

The first type of Class 7 pesticides are pesticides that are designated Domestic class under the PCPA, contain a Class 9 pesticide and have “dual uses”. In other words these pesticides have both a cosmetic use and a non-cosmetic use on their label. For example, an indoor-outdoor product may be labelled for use to control aphids on garden plants and for use indoors to control ants or cockroaches. Such a product is considered to have dual uses and would be classified in Class 7 if it contained a Class 9 pesticide.¹⁴ The indoor use is not banned (as section 7(1) of the Act sets out that the ban pertains to use of a pesticide in, on or over land) and the outdoor use is banned.

Note that if a dual-use product is a herbicide that contains a Class 10 pesticide (see Chapter 3.10 for an explanation of how Class 10 fits into the limited exception for the control of poisonous plants), the instructions on the label for the herbicide must not require mixing or dilution – in other words, the herbicides must be in ready-to-use formulations.

(ii) Signature Requirement Capsaicin Pesticides

The other group of pesticides in Class 7 are pesticides designated as Restricted class under the PCPA. The federal label of Restricted class pesticides that

¹⁴ The Director may need to use his or her discretion to determine if uses set out on the label of the pesticide are, in effect, for cosmetic purposes as opposed to “dual –use”.

contain the ingredient, capsaicin, indicate that the signature of the purchaser is required (e.g. bear repellents). These Restricted class pesticides will be placed into Class 7 as Controlled Sales pesticides.

Section 103 of the Regulation requires that Class 7 pesticides be displayed in a manner that is not accessible to the public. Such restrictions on accessibility will help ensure that the legal requirements for signature are met. It is important to control the sale of these products because the vendor must maintain a record of the sale, including the name and address of the purchaser, amount purchased together with a signed notice to purchase agreement¹⁵ as is required on the label of the pesticide to be provided to the purchaser by the vendor. In addition, such pesticides are required to be used exclusively as labelled (i.e., as a bear repellent) and any other use may constitute a criminal offence.

3.8 Class 8

1. The pesticide is designated under the *Pest Control Products Act* (Canada) as a pesticide of the Domestic class or is registered under the *Fertilizers Act* (Canada).
2. The pesticide may be used in, on or over land.
3. The pesticide contains a Class 9 pesticide.
4. The pesticide meets one of the following descriptions:
 - i. Its label does not set out any of the uses mentioned in subsection 7.1 (2) of the Act.
 - ii. If its label sets out a use mentioned in paragraph 4 of subsection 7.1 (2) of the Act, the label does not meet the description of a Controlled Sales pesticide set out in the Guideline mentioned in subsection 4 (5).

All pesticides in Class 8 are banned for sale in Ontario as per section 97(1) of the Regulation.

Federal Designation

Class 8 pesticides are designated Domestic class under the PCPA or pesticides registered under the *Fertilizers Act*.

¹⁵ See link to Health Canada's Pesticide Label Search web site at www.hc-sc.gc.ca/cps-spc/pest/registant-titulaire/tools-outils/label-etiq-eng.php

Use Criteria

A pesticide that may be used in, on or over land will be placed in Class 8 if the uses on the label indicate that it can be used for cosmetic purposes only. In other words, if every use set out on the label is a use other than those excepted under section 7.1(2) of the Act, then the pesticide will be placed into Class 8. For example, if the only use on a label was to destroy weeds on lawns, then the pesticide would be banned for sale in Ontario.

Note that even if a pesticide has a health or safety use on its label, it would still be placed into Class 8 if it were a herbicide that contained a Class 10 pesticide and was not in a ready-to-use formulation. Also note that if a herbicide contains an ingredient that is not in Class 10, it will be placed into Class 8.

Instead of classifying a pesticide as Class 8, the Director may choose to not classify the pesticide at all. This would have the same effect as it is illegal to use or sell a pesticide that is not classified in Ontario (see section 9(1) of the Regulation and s. 6 of the Act).

It should also be noted that Ontario does not allow the use of unregistered or unclassified pesticides whose risks and efficacy are not proven or not documented by the PMRA. For example, household cleaning products are illegal to use as pesticides. If improperly made, used and stored, such pesticides have the potential of becoming hazardous to human health and the environment. Using unregistered pesticides can expose humans and the environment to unknown and potentially unacceptable risks.

Section 13 of the Regulation specifies that the following “pesticides” are exempted from the *Pesticides Act*:

1. A pesticide that is a machine, apparatus or piece of equipment that does not use a pesticide classified under this Regulation, a chemical agent or a microbiological agent.
2. A pesticide that is not classified under this Regulation but is registered under the *Pest Control Products Act* (Canada) and is used only in the extermination of micro-organisms, including an algacide, slimicide or bactericide.
3. A pesticide that is a living animal that is not classified under this Regulation and that is not registered under the *Pest Control Products Act* (Canada).

As explained above, all other pesticides need to be classified and listed in the Compendium (available at the Ministry's Public Information Centre, during ordinary business hours or on the MOE web site at www.ene.gov.on.ca) in order to be used in Ontario.

3.9 Class 9

1. The pesticide is an ingredient in a Class 2, 3, 4, 5, 6, 7 or 8 pesticide.
2. The label of the Class 2, 3, 4, 5, 6, 7 or 8 pesticide sets out at least one use that is not a use mentioned in subsection 7.1 (2) of the Act.
3. The pesticide does not meet the description of a Category I pesticide in the Guideline mentioned in subsection 4(5).

Class 9 contains pesticides that are ingredients in Class 2, 3, 4, 5, 6, or 7 pesticides. If a Class 2, 3, 4, 5, 6, or 7 pesticide has a cosmetic use on its label, the ingredient will be placed in Class 9. The only exception to this is if the pesticide meets the requirements set out for Class 11 (See Chapter 3.11).

Note that it is illegal to use a pesticide in on or over land that contains an ingredient listed in Class 9 as set out in section 16 of the Regulation, unless the pesticide is being used under an exception. The exceptions are set out in sections 17 to 33 of the Regulation and include uses for agriculture, forestry, uses integral to structural exterminations, uses required under other legislation and golf courses with conditions. There are also exceptions for specialty turf, specified sports fields, managing natural resources, promotion of public health or safety (including public works and structural exterminations), arboriculture and scientific purposes if certain conditions are met.

Note, however, for the health or safety exception that there is only a limited exception for destroying plants that are poisonous to humans by touch. As set out in section 22 of the Regulation, a person is only permitted to use a Class 10 pesticide to deal with poisonous plants (please see Chapter 3.10).

3.10 Class 10

1. The pesticide is a Class 9 pesticide.
2. The pesticide meets the description of a Category II pesticide in the Guideline mentioned in subsection 4(5).

Class 10 contains pesticides that are ingredients in other pesticides. A pesticide that is an ingredient in a pesticide that meets the description of a Category II

pesticide will be placed in Class 10. To be considered a Category II pesticide, the pesticide must be listed¹⁶ as a Reduced-Risk Chemical (conventional) pesticide in the document entitled “Update on Reduced-Risk Pesticides in Canada” published by the PMRA as it may be amended from time to time.

PMRA indicates that a pesticide is designated as reduced-risk chemical (conventional) pesticide when the characteristics and use of a product present a reduced risk to human health or the environment when compared to alternatives. Reduced-risk pesticides are products that can do one or more of the following:

- Reduce the risks of pesticides to human health.
- Reduce the risks of pesticides to non-target organisms.
- Reduce the potential for contamination of groundwater, surface water or other valued environmental resources.

See the following website for more information on PMRA’s designation of reduced-risk pesticides at:

<http://www.hc-sc.gc.ca/cps-spc/pest/protect-proteger/low-ris-faible/index-eng.php>.

Domestic pesticides that contain Class 10 pesticides will be placed in Class 5, 6 or 7 depending on the uses on their label and their hazard criteria set out in the Guideline. Non-domestic pesticides that contain Class 10 pesticides may be placed in Classes 2, 3, or 4 depending on the hazard criteria of the pesticide.

Note that all pesticide ingredients in Class 10 are also in Class 9. This means that the use of these pesticides is banned for use, unless used under an exception set out in the Regulation (see sections 17 to 33). Only a limited exception exists for destroying plants that are poisonous to humans by touch. As set out in section 22 of the Regulation, a person is only permitted to use a Class 10 pesticide to control or destroy poisonous plants.

¹⁶ Please note that products that are considered equivalent to products listed as reduced-risk pesticides in the document entitled “Update on Reduced-Risk Pesticides in Canada” published by Health Canada’s Pest Management Regulatory Agency and amended from time to time will be considered to be on the list for the purposes of classification in Ontario.

3.11 Class 11

1. The pesticide is an ingredient in a Class 2, 3, 4, 5, 6 or 7 pesticide.
2. The pesticide meets the description of a Category I pesticide in the Guideline mentioned in subsection 4(5).

Class 11 contains pesticides that are ingredients in other pesticides. A pesticide that is an ingredient in a pesticide that satisfies the criteria for Category I in the Guideline will be placed in Class 11.

To be considered a “Category I Pesticide”, the pesticide must contain ONLY pesticide ingredients listed in Class 11 and meet one of the following criteria:

1. the pesticide product must be listed¹⁷ as a “biopesticide” in the document entitled “Update on Reduced-Risk Pesticides in Canada” published by the PMRA, as it may be amended from time to time;
or
2. the pesticide product must meet the criteria for determining it as a “lower-risk” pesticide,

The characteristics used to determine if a pesticide is a Class 11 pesticide is that it is considered to be a “biopesticide” by the PMRA or meets the criteria based on the PMRA proposal for low-risk pesticides. Such lower-risk pesticides have some or all of the following characteristics:

- They have a non-toxic mode of action¹⁸
- They are of low toxicity to organisms the product is not targeting¹⁹

¹⁷ Please note that products that are considered equivalent to products listed as biopesticide products in the document entitled “Update on Reduced-Risk Pesticides in Canada” published by the Health Canada Pest Management Regulatory Agency and amended from time to time will be considered to be on the list for the purposes of classification in Ontario.

¹⁸ Non-toxic mode of action (i.e., pesticidal action is not the result of target organism toxification). The phrase “non-toxic mode of action” is interpreted to include such pest control mechanisms as attraction, repellency (including irritants), growth regulation/ developmental changes and induction of system acquired resistance as well as physical modes of action such as desiccation, coatings or smothering, e.g. by naturally occurring oils. The Agency recognizes that physical modes of action, e.g. suffocation, may be lethal to the target pest, but they are considered to be a non-toxic mode of action because they do not involve toxic chemical –or poison –induced effects (excerpted from the PMRA Regulatory Proposal PRO2007-02).

- They do not persist in the environment²⁰
- The product is used in ways that do not cause significant exposure. For example, the product is premixed or it is applied in a closed system, reducing human and environmental exposure.
- They have been widely available to the public for other uses for some time.

The following categories of pesticides may be considered to be biopesticides or low-risk pesticides: microbials; biochemical pesticides; substances that are naturally present or derived by simple processing; certain types of plant extracts and essential oils; and certain commodity chemicals. Please see the following website for more information: <http://www.hc-sc.gc.ca/cps-spc/pest/protect-proteger/low-ris-faible/index-eng.php>.

¹⁹ Products with low inherent toxicity to humans and other non-target organisms are expected to have minimal anticipated environmental and health risks even when exposure is extensive. It should be pointed out that substances with chronic toxicity, carcinogenicity, mutagenicity, neurotoxicity and reproductive/ developmental effects are not eligible for review under this low-risk scheme (excerpted from the PMRA Regulatory Proposal PRO2007-02)

²⁰ The PMRA recognizes that certain naturally occurring substances are relatively persistent in the environment; therefore, a case-by case approach will be taken to assess this characteristic when determining if a pesticide poses low risk (excerpted from the PMRA Regulatory Proposal PRO2007-02).

4. REFUSAL TO CLASSIFY, RECLASSIFICATION OR DECLASSIFICATION

4.1 Refusal to classify

Section 4 of the Regulation gives the Director the discretion to refuse to classify a pesticide if the Director is of the opinion that:

1. it does not have sufficient information to recommend that the pesticide be classified;
2. proper use of the pesticide is likely to have one or more effects mentioned in subsection 49(3) of the Act, to an extent that is excessive, unreasonable or unnecessary, or
3. it is not in the public interest to classify the pesticide.

4.2 Reclassification

Section 6 of the Regulation gives the Director the discretion to reclassify a pesticide. Before doing so, the Director must give notice of the intention to reclassify to the person (or the Canadian agent of that person) who registered the pesticide under the federal PCPA or the *Fertilizers Act*.

The Director may also request that OPAC provide a written recommendation about whether a class 1, 2, 3, 4, 5, or 6 pesticide should be reclassified. OPAC may also provide written recommendations about reclassification on its own initiative.

4.3 Declassification

Under **section 7** of the Regulation the Director may also declassify a pesticide in the following situations after having regard to the Act and the recommendations of OPAC:

1. the declassification has been requested by the person (or the Canadian agent of the person) who registered the pesticide under the PCPA requests or consents to the declassification;
2. the pesticide is no longer registered under the federal PCPA;

3. the Director has notified the person who registered the pesticide under the PCPA of newly available information that suggests that it is no longer in the public interest to classify the pesticide and where the Director has also considered any submissions made by the person who registered the pesticide;
4. the Director has provided the person who registered the pesticide under the PCPA with relevant scientific or other information suggesting that use of the pesticide in accordance with the label directions is liable to have one of the negative effects listed in s.49(3) of the Pesticides Act

The Director may also request that OPAC provide a written recommendation about whether a class 1, 2, 3, 4, 5, or 6 pesticide should be declassified. OPAC may also provide written recommendations about declassification on its own initiative.

5. DEFINITIONS

“fumigant gas” is defined in section 1 of the Regulation to be a fumigant that is a gas at a temperature of 20° C and standard pressure.

“LD₅₀” is the median lethal dose and is the dose required to kill half of the members of a tested population. A pesticide with a lower LD₅₀ is more toxic than a pesticide with a higher number because it takes less of the pesticide to kill half of the test animals. Pesticides that have a smaller number for LD₅₀ are more toxic than pesticides that have a larger number for LD₅₀.

“pest control product” as defined under the *Pest Control Products Act*, 2002 means

- (a) a product, an organism or a substance, including a product, an organism or a substance derived through biotechnology, that consists of its active ingredient, formulants and contaminants, and that is manufactured, represented, distributed or used as a means for directly or indirectly controlling, destroying, attracting or repelling a pest or for mitigating or preventing its injurious, noxious or troublesome effects;
- (b) an active ingredient that is used to manufacture anything described in paragraph (a); or

(c) any other thing that is prescribed to be a pest control product.

“pesticide” means any organism, substance or thing that is manufactured, represented, sold or used as a means of directly or indirectly controlling, preventing, destroying, mitigating, attracting or repelling any pest or of altering the growth, development or characteristics of any plant life that is not a pest and includes any organism, substance or thing registered under the *Pest Control Products Act* (Canada) as defined in section 1 of the *Pesticides Act*.

“soil half-life” is defined as the time required for half the amount of applied pesticide to be completely degraded and is a measure of the persistence of a pesticide in soil. Pesticides that have a longer time period for soil half-life are more persistent than pesticides with a shorter time period for soil half-life.

“structural extermination” means the destruction, prevention or control of a pest that may adversely affect a building, structure, machine, vehicle or their contents of the use or enjoyment thereof by any person by the use of a pesticide in, on or in the vicinity of the building, structure, machine or vehicle and includes the destruction, prevention or control of termites as defined in Section 1 of the *Pesticides Act*.

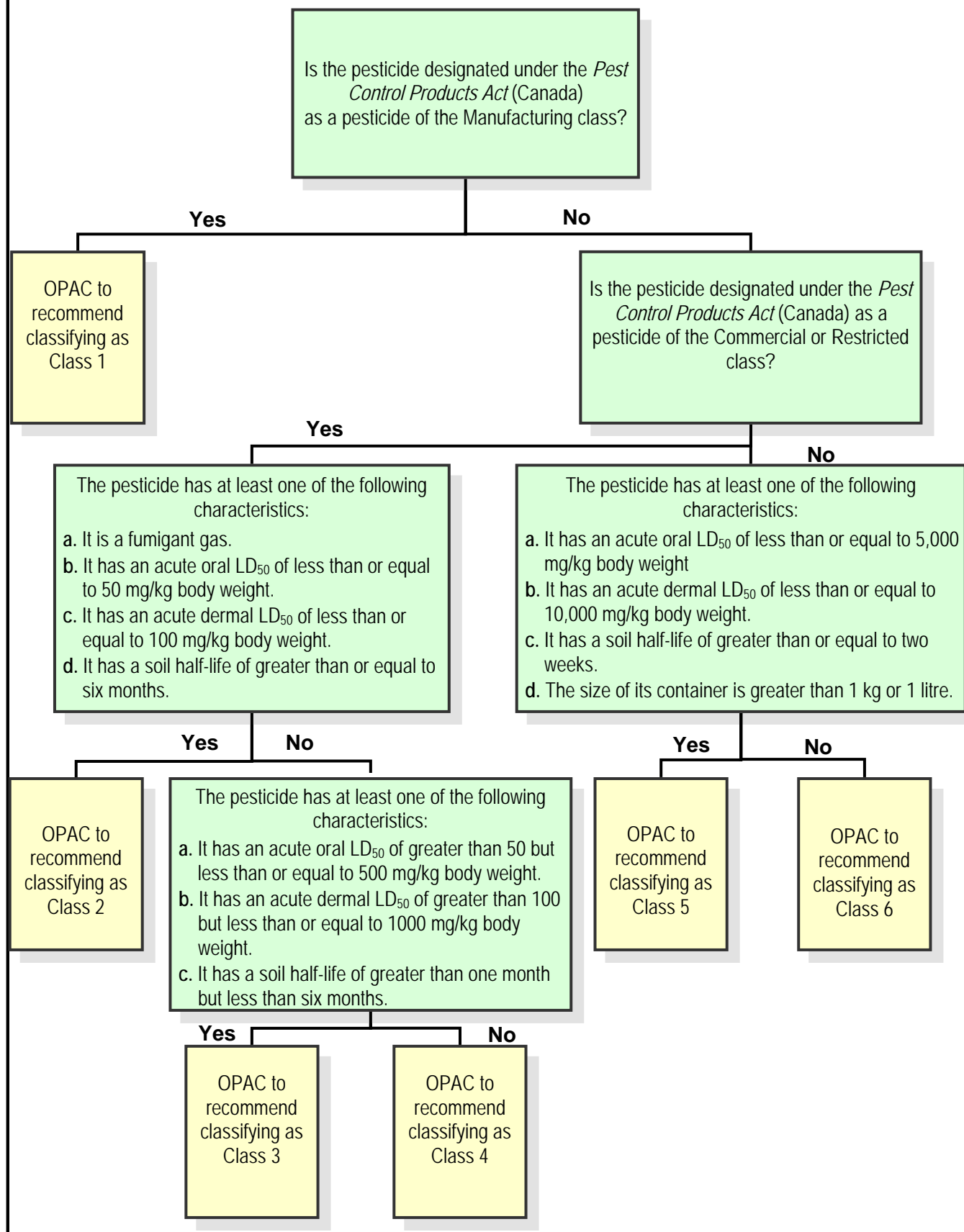
“water extermination” means the destruction, prevention or control in, on or over surface water of a pest by the use of a pesticide as defined in Section 1 of the *Pesticides Act*.

APPENDICES

Appendix A – Recommendations on Pesticide Classification by OPAC

Appendix B – Pesticide Classification by the Director

APPENDIX A: RECOMMENDATIONS ON PESTICIDE CLASSIFICATION BY OPAC



APPENDIX B: PESTICIDE CLASSIFICATION BY THE DIRECTOR

